

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

**H. THOMAS MORAN, II, Receiver of
the Assets of LifeTime Capital, Inc. and
Certain Affiliated Persons and Entities,**

Plaintiff,

VS.

HOWARD F. WUNDERLICH, M.D.,
et al.,

Defendants.

Case No. 3:05CV073

District Judge Walter Herbert Rice
Magistrate Judge Sharon L. Ovington

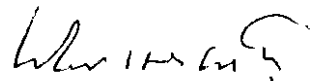
DECISION AND ENTRY ADOPTING IN FULL THE REPORT AND RECOMMENDATIONS FILED ON SEPTEMBER 20, 2007 (Doc. #76); APPROVING THE PARTIES' PROPOSED SETTLEMENT AGREEMENT; ORDERING THE PARTIES TO EXECUTE THE SETTLEMENT AGREEMENT; ORDERING DEFENDANTS TO PAY THE RECEIVER PURSUANT TO THE TERMS OF THE SETTLEMENT AGREEMENT; DISMISSING THE CASE WITH PREJUDICE WITHIN TEN DAYS AFTER DEFENDANTS MAKE FINAL PAYMENTS PURSUANT TO THE TERMS OF THE SETTLEMENT AGREEMENT; AND CONFIRMING THAT UPON DISMISSAL OF THIS ACTION, ALL CLASS MEMBERS WHO DID NOT OPT OUT OF SETTLEMENT, AS REFLECTED IN THE STIPULATIONS READ INTO THE COURT'S RECORD AT THE FAIRNESS HEARING, ARE BOUND BY THE RELEASES SET OUT IN THE SETTLEMENT AGREEMENT EXECUTED BY THE RECEIVER AND THE DEFENDANTS

The Court has conducted a de novo review of the Report and Recommendations of United States Magistrate Judge Sharon L. Ovington (Doc. #76), to whom this case was originally referred pursuant to 28 U.S.C. §636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) has

expired, hereby **ADOPTS** said Report and Recommendations.

It is therefore **ORDERED** that:

1. The Report and Recommendations filed on September 20, 2007 (Doc. #76) is ADOPTED in full;
2. The settlement to which the Receiver and the Defendants have agreed is approved;
3. The settlement agreement between the parties, submitted as Joint Exhibit 1 at the fairness hearing, shall be executed by all parties;
4. Each of the Defendants, through counsel, are directed to submit to Joseph C. Oehlers of Bieser, Greer & Landis, LLP, 400 National City Center, 6 N. Main Street, Dayton, Ohio 45402, an initial \$10,000 settlement payment **no later than October 20, 2007**, and a final \$10,000 settlement payment **no later than March 10, 2008**;
5. The aforementioned payments shall be made in certified funds and payable to H. Thomas Moran, II as Receiver of the Assets of LifeTime Capital, Inc.;
6. Within ten (10) days of the final settlement payments by the Defendants, this action will be dismissed with prejudice; and
7. Upon dismissal of this action, all Class members who did not opt out of settlement, as reflected in the stipulations read into the Court's record at the fairness hearing, are bound by the releases set out in the settlement agreement executed by the Receiver and the Defendants.



Walter Herbert Rice
United States District Judge